

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

MICHAEL D. SMITH and  
MARGUERITE SMITH,

Plaintiffs,

V.

No. 3:14-CV-2402-M-BN

JPMORGAN CHASE BANK,  
NATIONAL ASSOCIATION  
and MATTHEW TRAN,

Defendants.

**ORDER ACCEPTING FINDINGS AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE**

The United States Magistrate Judge made Findings, Conclusions, and a Recommendation in this case on November 3, 2014. *See* Dkt. No. 25. No objections were filed. The District Court reviewed the proposed Findings, Conclusions, and Recommendation for plain error. Finding none, the Court ACCEPTS the Findings, Conclusions and Recommendation of the United States Magistrate Judge.

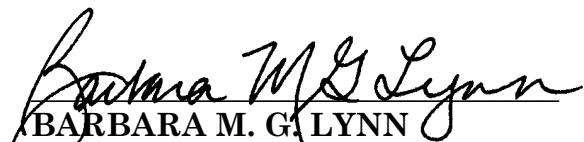
Defendant Dienbao Tran is DISMISSED from this lawsuit because he was improperly joined, Plaintiffs' Opposed Motion to Remand [Dkt. No. 10] is DENIED, and Defendant Tran's Motion to Dismiss [Dkt. No. 7] is DENIED AS MOOT.

Defendant JPMorgan Chase Bank's Motion to Dismiss [Dkt. No. 6] is granted in part and denied in part as follows: (1) JPMC's Motion to Dismiss is DENIED as to Plaintiffs' claim for breach of contract on the original mortgage loan and Plaintiffs' common-law unreasonable collection tort claim and Texas Debt Collection Practices

Act claims based on JPMC's collection efforts allegedly made with the intent to abuse or harass Plaintiffs; (2) JPMC's Motion to Dismiss is GRANTED WITHOUT PREJUDICE as to Plaintiffs' claims for breach of contract on the lock-in agreement, and estoppel and waiver, and (3) JPMC's Motion to Dismiss is GRANTED WITH PREJUDICE as to Plaintiffs' claims for conversion, violations of the Texas Debt Collection Practices Act based on JPMC's allegedly making false or misleading statements, violations of the Texas Deceptive Trade Practices Act, and negligence.

Plaintiffs have twenty-one days to replead the claims dismissed without prejudice. If Plaintiffs do not replead, the case will be dismissed with prejudice without further notice.

**SO ORDERED** this 2nd day of December, 2014.



BARBARA M. G. LYNN  
UNITED STATES DISTRICT JUDGE  
NORTHERN DISTRICT OF TEXAS